

## § 55.21

tests when he or she determines that the laboratory:

(1) Employs personnel assigned to supervise the testing who are qualified to conduct the test based on education, training, and experience and who have been trained by NVSL or who have completed equivalent training approved by NVSL;

(2) Has adequate facilities and equipment to conduct the test;

(3) Follows standard test protocols;

(4) Meets check test proficiency requirements;

(5) Meets recordkeeping requirements;

(6) Will retain records, slides, blocks, and other specimens from all cases for at least 1 year and from positive cases for 5 years;

(7) Will allow APHIS to inspect<sup>1</sup> the laboratory without notice during normal business hours; and

(8) Will report all test results to State and Federal animal health officials within agreed timeframes.

(e) The Administrator may withdraw approval of any laboratory for failure to meet any of the conditions required by paragraph (d) of this section. The Administrator shall give written notice of the proposed withdrawal to the director of the laboratory and shall give the director an opportunity to respond. If there are conflicts as to any material fact concerning the reason for withdrawal, a hearing will be held to resolve the conflicts. The hearing will be conducted in accordance with rules of practice that will be adopted by the Administrator for the proceeding.

## Subpart B—Chronic Wasting Disease Herd Certification Program

SOURCE: 71 FR 41702, July 21, 2006, unless otherwise noted.

EFFECTIVE DATE NOTE: At 71 FR 41702, July 21, 2006, subpart B, consisting of §§ 55.21 through 55.25, was added to part 55, effective Oct. 19, 2006. At 71 FR 52983, Sept. 8, 2006, the

<sup>1</sup> An inspection may include, but is not limited to, review and copying of records, examination of slides, observation of the test being conducted, and interviewing of personnel.

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effective date was delayed until further notice.

### § 55.21 Administration.

The CWD Herd Certification Program is a cooperative effort between APHIS, State animal health and wildlife agencies, and deer, elk, and moose owners. APHIS coordinates with these State agencies to encourage deer, elk, and moose owners to certify their herds as low risk for CWD by being in continuous compliance with the CWD Herd Certification Program standards.

### § 55.22 Participation and enrollment.

(a) *Participation by owners.* Any owner of a farmed or captive deer, elk, or moose herd may apply to enroll in the CWD Herd Certification Program by sending a written request to the appropriate State agency, or to the veterinarian in charge if no Approved State CWD Herd Certification Program exists in the herd's State. APHIS or the State will determine the herd's eligibility, and if needed will require the owner to submit more details about the herd animals and operations. An application for participation may be denied if APHIS or the State determines that the applicant has previously violated State or Federal laws or regulations for livestock, and that the nature of the violation indicates that the applicant may not faithfully comply with the requirements of the CWD Herd Certification Program. If the enrolling herd is a CWD-positive herd or CWD-exposed herd, immediately after enrollment it must begin complying with a herd plan developed in accordance with § 55.24. After determining that the herd is eligible to participate in accordance with this paragraph, APHIS or the appropriate State agency will send the herd owner a notice of enrollment that includes the herd's enrollment date. Inquiries regarding which herds are participating in the CWD Herd Certification Program and their certification should be directed to the State representative of the relevant State.

(1) *Enrollment date.* With the exceptions listed in this paragraph, the enrollment date for any herd that joins the CWD Herd Certification Program after the effective date of this rule will

be the date the herd is approved for participation.

(i) For herds already participating in State CWD programs, the enrollment date will be the first day that the herd participated in a State program that APHIS subsequently determines qualifies as an Approved State CWD Herd Certification Program in accordance with § 55.23(a) of this part. This type of constructed enrollment date will be unavailable for herds that apply to enroll after October 19, 2007, and herds that apply to enroll after that date will have an enrollment date of the date APHIS approves the herd participation.

(ii) For herds that enroll directly in the Federal CWD Herd Certification Program, which is allowed only when there is no Approved State CWD Herd Certification Program in their State, the enrollment date will be the earlier of:

(A) The date APHIS approves enrollment; or

(B) If APHIS determines that the herd owner has maintained the herd in a manner that substantially meets the conditions specified in § 55.23(b) for herd owners, the first day that the herd participated in such a program. However, in such cases the enrollment date may not be set at a date more than 2 years prior to the date that APHIS approved enrollment of the herd. This type of constructed enrollment date will be unavailable for herds that apply to enroll after October 19, 2007, and herds that apply to enroll after that date will have an enrollment date of the date APHIS approves the herd participation.

(iii) For new herds that were formed from and contain only animals from herds enrolled in the CWD Herd Certification Program, the enrollment date will be the latest enrollment date for any source herd for the animals.

(2) [Reserved]

(b) *Participation by States.* Any State that operates a State program to certify the CWD status of deer, elk, or moose may request the Administrator to designate the State program as an Approved State CWD Herd Certification Program. The Administrator will approve or disapprove a State program in accordance with § 55.23(a) of this subpart. In States with an Ap-

proved State CWD Herd Certification Program, program activities will be conducted in accordance with the guidelines of that program as long as the State program meets the minimum requirements of this part. A list of Approved State CWD Herd Certification Programs may be obtained by writing to the National Center for Animal Health Program, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1235.

(Approved by the Office of Management and Budget under control number 0579-0237)

#### **§ 55.23 Responsibilities of States and enrolled herd owners.**

(a) *Approval of State programs and responsibilities of States.* In reviewing a State program's eligibility to be designated an Approved State CWD Herd Certification Program, the Administrator will evaluate a written statement from the State that describes State CWD control and deer, elk, and moose herd certification activities and that cites relevant State statutes, regulations, and directives pertaining to animal health activities and reports and publications of the State. In determining whether the State program qualifies, the Administrator will determine whether the State:

(1) Has the authority, based on State law or regulation, to restrict the intrastate movement of all CWD-positive, CWD-suspect, and CWD-exposed animals.

(2) Has the authority, based on State law or regulation, to require the prompt reporting of any animal suspected of having CWD and test results for any animals tested for CWD to State or Federal animal health authorities.

(3) Has, in cooperation with APHIS personnel, drafted and signed a memorandum of understanding with APHIS that delineates the respective roles of the State and APHIS in CWD Herd Certification Program implementation.

(4) Has placed all known CWD-positive, CWD-exposed, and CWD-suspect animals and herds under movement restrictions, with movement of animals from them only for destruction or under permit.

(5) Has effectively implemented policies to: